IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 17495 of 2004

Between:

Smt.Sk.Habibunnisa, w/o Sk.Basheer Ahmed,
Aged about 45 years, R/at H.No.28/1356,
Venkateswarapuram,
Nellore-524 005.

..... PETITIONER

AND

1. Station House Officer, Nellore Rural Police Station,
   Nellore-524 001.
2. Registering Authority, O/o the Deputy Transport Commissioner,
   Nellore-524 004.
3. Branch Manager, Shriram Transport Finance Company Ltd.,
   H.No.17-301, Trunk Road, Nellore-524 001.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the inaction of the respondent No.1 on the complaint dated 21-6-2004 as illegal and unjust, arbitrary, dilatory and violative of Articles 14, 19 and 21 of the Constitution of India and consequently direct the respondent No.1 to register the case against the 3rd respondent company and its officials of Nellore branch.

Counsel for the Petitioner: MR.K.GURIVI REDDY

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondent No.2: GP FOR TRANSPORT

Counsel for the Respondent No.3: MR.C.RAGHU

The Court, at the stage of admission, made the following :

O R D E R;

The petitioner is a hire purchaser of a motor vehicle bearing registration No.AP 09 V 5570 under hire purchase agreement dated 31-10-2001 with the third respondent. He borrowed Rs.2,60,000/- from the third respondent. The vehicle was purchased in the name of the third respondent and he was given possession of the vehicle with an understanding to repay the loan amount in equal instalments. The petitioner failed to pay the instalments. Therefore, the third respondent seized the vehicle on 06-07-2003. The petitioner contends that he gave a complaint to the concerned police i.e., first respondent under Sections 395 and 506 of the Indian Penal Code, but the first respondent did not register any crime and take any action in this matter. He, therefore, approached this Court through this writ petition seeking to declare the inaction of the first respondent on the complaint given by him on 21-06-2004, as illegal, unjust, arbitrary and violative of Articles 14, 19 and 21 of the Constitution of India. When the Station House Officer failed to take action on the complaint given by him in a cognizable offence, the remedy is open to him to approach the concerned Magistrate with a complaint as provided under the Criminal Procedure Code. The petitioner, instead of approaching the concerned Magistrate with a similar complaint, came before this Court through this writ petition one and half years after the complaint was given to the first respondent. If the petitioner is aggrieved by the inaction of the first respondent, he is however at liberty to approach the concerned Magistrate of Judicial First Class

and make a complaint for appropriate action.

The writ petition is accordingly dismissed. No costs.

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28-10-2004.

Lrkm.

To

1. The Station House Officer, Nellore Rural Police Station,
   Nellore-524 001.
2. The Registering Authority, O/o the Deputy Transport Commissioner,
   Nellore-524 004.

3. 2CCs to Government Pleader for Home, High Court Buildings, High

Court of A.P.Hyderabad (O.U.T)

4. 2CCs to Government Pleader for Transport, High Court Buildings,

High Court of A.P. Hyderabad (O.U.T)

5. 2 CD copies.